

OFFICE OF THE ATTORNEY GENERAL



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STATE OF ALABAMA

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Commissioner Faye S. Baggiano
Alabama Medicaid Agency
2500 Fairlane Drive
Montgomery, AL 36130

Public Records - Competitive Bid
Law - Contracts - Medicaid Agency

In a public contract, all original
bids together with all documents
pertaining to the award of the
contract are open to public
inspection.

Dear Commissioner Baggiano:

You have requested an opinion of this office concerning
whether a contract between the Alabama Medicaid Agency and
its fiscal agent along with accompanying documents is
releasable to the public.

The facts concerning this matter are understood as
follows:

- 1) The Alabama Medicaid Agency issues an Invitation
to Bid (ITB) to secure fiscal agent services for
processing Medicaid claims and paying providers
of services. The current contract was bid in
1982.
- 2) The successful contractor, EDS, d.b.a. Alacaid,
prefaced its Technical Proposal with a statement
of confidentiality which sought to limit dis-
closure of the contents of the proposal. Under
provisions of the ITB, the Technical Proposal is
incorporated into the contract and made a part
thereof.

- 3) A request was made under Code of Alabama 1975,
§ 36-12-40 for a copy of the fiscal agent contract
as well as the technical and cost proposal.

Code of Alabama 1975, § 36-12-40 provides a right to inspect and take a copy of any public writing. The Alabama Supreme Court defined the public writing spoken of in this section as a record reasonably necessary to record the business and activities required to be done or carried on by a public officer so that the status and condition of such business and activities can be known by the citizens. Stone v. Consolidated Publishing Co., 404 So. 2d 678 (Ala. 1981). The Supreme Court also held in Stone that there may be some exceptions to the general rule of disclosure. For example, recorded information received by a public officer in confidence, sensitive personnel records, pending criminal investigations, and records the disclosure of which would be detrimental to the best interests of the public are some of the areas which may not be subject to public disclosure.

However, the information requested in the present case is also governed by Alabama's competitive bid law. Code of Alabama 1975, § 41-16-24 states in relevant part that "all original bids together with all documents pertaining to the award of the contract shall be retained and made a part of a permanent file or records and shall be open to public inspection".

It is the opinion of this office that the fiscal agent contract as well as the Technical Proposal should be open to public inspection and are releasable. If this office may be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
ATTORNEY GENERAL

By:



J. MICHAEL HORSLEY
ASSISTANT ATTORNEY GENERAL

CAG:JMH:mb